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TRAVEL, TRANSPORTATION, ETC. § 5706

amount not to exceed 12 cents per mile for use of privately owned automobiles did not require that maximum amount be paid, and employee who received less than maximum amount was not entitled to payment of difference. *Burich v. U. S.*, Ct.Cl.1966, 366 F.2d 984.

2. Highway and bridge tolls

An employee who travels by privately-owned auto on a mileage basis and who uses a toll highway instead of an alternate free highway may be reimbursed for toll charges provided there is an administrative determination that the toll road is a usually traveled route or

that the official necessity for its use has been established in accordance with travel regulations. 1953, 32 Comp.Gen. 438.

3. Travel by privately owned airplane

An employee who uses private aircraft for official travel solely for his personal convenience is limited to reimbursement of round-trip common carrier cost and may not be reimbursed on mileage and actual expense basis for various modes of commercial transportation used when weather conditions necessitated abandonment of his aircraft. 1950, 35 Comp.Gen. 550.

§ 5705. Advancements and deductions

An agency may advance, through the proper disbursing official, to an employee or individual entitled to per diem or mileage allowances under this subchapter, a sum considered advisable with regard to the character and probable duration of the travel to be performed. A sum advanced and not used for allowable travel expenses is recoverable from the employee or individual or his estate by—

- (1) setoff against accrued pay, retirement credit, or other amount due the employee or individual;
- (2) deduction from an amount due from the United States; and
- (3) such other method as is provided by law.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 500.

Historical and Revision Notes

Reviser's Notes

Derivation:	United States Code	Revised Statutes and Statutes at Large
	5 U.S.C. 838	June 9, 1949, ch. 185, § 5, 63 Stat. 166.

Explanatory Notes.

The words "disbursing official" are substituted for "disbursing officer" because of the definition of "officer" in section 2104 which excludes a member of a uniformed service. Application to section 5703 is based on former section 73b-2, which is carried into section 5703.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5706. Allowable travel expenses

Except as otherwise permitted by this subchapter or by statutes relating to members of the uniformed services, only actual and necessary travel expenses may be allowed to an individual holding employment or appointment under the United States. Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 500.

5 § 5702

Note 8

diem allowance for his work in Providence, Rhode Island, which was within five miles of his residence, in spite of the issuance of an indefinite travel order authorizing travel from Boston, Massachusetts, to Providence and other points in Rhode Island, Massachusetts, and Connecticut. *Bornhoff v. U. S.*, 1936, 137 Ct. Cl. 134.

Employee travelling from Washington, D. C., to Alexandria, Va., at 11 o'clock a. m., and returning at 2 o'clock p. m. of

EMPLOYEES

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same day is entitled to reimbursement for travel paid for at Alexandria. *Ward v. U. S.*, 1925, 60 Ct. Cl. 1002.

9. Leave time

When a Federal employee enters upon either sick leave, annual leave, or leave without pay, he is no longer traveling on official business for the Government unless statutory enactment so provides. *Erickson v. U. S.*, 1932, 103 F.Supp. 1020, 123 Ct. Cl. 163.

§ 5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay

(a) For the purpose of this section, "appropriation" includes funds made available by statute under section 849 of title 31.

(b) An individual employed intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis may be allowed travel expenses under this subchapter while away from his home or regular place of business, including a per diem allowance under this subchapter while at his place of employment.

(c) An individual serving without pay or at \$1 a year may be allowed transportation expenses under this subchapter and a per diem allowance under this section while en route and at his place of service or employment away from his home or regular place of business. Unless a higher rate is named in an appropriation or other statute, the per diem allowance may not exceed—

(1) the rate of \$16 for travel inside the continental United States; and

(2) the rates established under section 5702(a) of this title for travel outside the continental United States.

(d) Under regulations prescribed under section 5707 of this title, the head of the agency concerned may prescribe conditions under which an individual to whom this section applies may be reimbursed for the actual and necessary expenses of the trip, not to exceed an amount named in the travel authorization, when the maximum per diem allowance would be much less than these expenses due to the unusual circumstances of the travel assignment. The amount named in the travel authorization may not exceed—

(1) \$30 for each day in a travel status inside the continental United States; or

(2) the maximum per diem allowance plus \$10 for each day in a travel status outside the continental United States.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 499.

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Historical

Derivation: United States Code
5 U.S.C. 73b-2

Explanatory Notes.

Subsection (a) is added on at the end of section 18 of the Act of August 7, 1944, 60 Stat. 811.

In subsection (b), the words "in substance" are omitted as unnecessary in view of the definition of "per diem allowance" in section 5701(4). The words "this subchapter" are substituted for "the Standardized Government Regulations, Subsistence Expense Act of 1926, as amended (5 U.S.C. 821-824) the Act of February 14, 1931, as amended by this Act" as the Subsistence Regulations, 1926, and the Act of February 14, 1931, were repealed by section 9(a) of the Travel Expense Act of 1949, 63 Stat. 1042, part of which appeared in former section 842 and is carried into section 5703 as the authority for the Standardized Government Travel Regulations in section 840 is carried into section 5703.

In subsection (c), the words "this subchapter" are substituted for "the

Advisory committees and panels in education of handicapped children, 20, Education.

Board of Regents of National Laboratories, expenses under this section, see section 14, Coast Guard, expenses of Advisory Committee, 14, Coast Guard.

Education professions development, International Health Research, 2102, 2103 of Title 22, Foreign Relations, National Advisory Council on Education, of Title 20, Education.

National Science Foundation, Transportation and subsistence, section 1870(h) of Title 42, Travel expenses of members of the National Science Foundation, section 1873(d) of Title 42, Temporary employment of experts, 1873(d) of Title 42.

Library references

United States Code, 39(9).
C.J.S. United States §§ 17, 47.

1. Generally

Where intermittent Federal employment was automatically converted to temporary employment by reason of the

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TRAVEL, TRANSPORTATION, ETC. 5 § 5703

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Historical and Revision Notes

Reviser's Notes

Derivation: United States Code
5 U.S.C. 73b-2

Revised Statutes and Statutes at Large
Aug. 2, 1946, ch. 744, § 5, 60 Stat. 808.
July 28, 1935, ch. 424, § 2, 49 Stat. 394.
Aug. 14, 1961, Pub.L. 87-139, §§ 2, 8(b),
75 Stat. 339, 340.

Explanatory Notes.

Subsection (a) is added on authority of section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

In subsection (b), the words "In lieu of subsistence" are omitted as unnecessary in view of the definition of "per diem allowance" in section 5701(4). The words "this subchapter" are substituted for "the Standardized Government Travel Regulations, Subsistence Expense Act of 1926, as amended (5 U.S.C. 821-833) and the Act of February 14, 1931, as amended by this Act" as the Subsistence Expense Act of 1926 and the Act of February 14, 1931, were repealed by section 9(a) of the Travel Expense Act of 1949, 63 Stat. 167, part of which appeared in former section 842 and is carried into section 5708, and as the authority for the Standardized Government Travel Regulations in former section 840 is carried into section 5707.

In subsection (c), the words "this subchapter" are substituted for "said

regulations and said Act of February 14, 1931, as so amended" as the Act of February 14, 1931, was repealed by section 9(a) of the Travel Expense Act of 1949, 63 Stat. 167, part of which appeared in former section 842 and is carried into section 5708, and as the authority for the Standardized Government Travel Regulations in former section 840 is carried into section 5707. The words "In lieu of subsistence" are omitted as unnecessary in view of the definition of "per diem allowance" in section 5701(4).

In subsection (d), the words "Under regulations prescribed under section 5707 of this title" are substituted for "In accordance with regulations promulgated by the Director, Bureau of the Budget, pursuant to section 840 of this title."

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Advisory committees and panels of experts for research and demonstration projects in education of handicapped children, application of section to, see section 618 of Title 20, Education.

Board of Regents of National Library of Medicine, members of as entitled to travel expenses under this section, see section 277 of Title 42, The Public Health and Welfare. Coast Guard, expenses of Advisory Committee to Academy, see section 193 of Title 14, Coast Guard.

Education professions development, see section 1091f of Title 20, Education. International Health Research Act of 1960, application of section to, see sections 2102, 2103 of Title 22, Foreign Relations and Intercourse; section 242f of Title 42. National Advisory Council on Education Professions Development, see section 1091a of Title 20, Education.

National Science Foundation

Transportation and subsistence for persons serving without compensation, see section 1870(h) of Title 42, The Public Health and Welfare.

Travel expenses of members of Board, divisional committees, or special commission, see section 1873(d) of Title 42.

Temporary employment of experts and consultants, see section 3109 of this title.

Notes of Decisions

Library references

United States Code 39(9).
C.J.S. United States §§ 17, 47.

1. Generally

Where intermittent Federal employment was automatically converted to temporary employment by reason of the

experts and consultants having reached the 130-day limitation prescribed by Civil Service regulations, such conversion did not retroactively invalidate previous payments of per diem in lieu of subsistence for the intermittent service. 1956, 36 Comp.Gen. 351.

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did not support contention that he outside earnings for two and a half period immediately following his termination. Id.

In action to recover back salary research engineer who lost his security clearance and as a consequence was removed from state unemployment compensation rolls prior to date on which, as a result of successful appeal, suspension was lifted, supported denation of administrative agency engineer was only entitled to back pay from date of suspension to date his duty to receive further unemployment pay was withdrawn by state department of employment and not until his suspension was lifted. *Kamarch S. 1968, 394 F.2d 525, 184 Ct.Cl. 125.* orally denied 89 S.Ct. 1630, 394 U.S. 23 L.Ed.2d 40.

a suit for back pay based on an allegation that some adverse personnel action was taken in an arbitrary manner as lacking in good faith on the part of government employing agency official, the evidence to support such allegation must be clear and convincing and fact that a high-ranking Foreign Service officer who sat as a member of plaintiff's review panel in a selection-out proceeding proceeding under section 1003 Title 22 displayed some impatience with plaintiff on a few occasions and not friendly towards plaintiff at so functions falls short of proof of bad faith and malice. *Chwat v. U. S., 1966, Ct.Cl. 392.*

Prior payments
reinstated employee who received back award could not retain lump-sum payment made to him in course of employment separation. *Ainsworth v. S., 1968, 399 F.2d 176, 185 Ct.Cl. 110.*

F.I.C.A. taxes
amount of F.I.C.A. taxes which would have been deducted from reinstated employee's wages had he not been separated and which were not deducted from his outside earnings must be deducted from back pay awarded reinstated employee if paid into his F.I.C.A. account. *Ainsworth v. U. S., 1968, 399 F.2d 176, 185 Ct.Cl. 110.*

TRANSPORTATION, EXPENSE

SUBCHAPTER II—TRAVEL AND TRANSPORTATION EXPENSES; NEW APPOINTEES, STUDENT TRAINEES, AND TRANSFERRED EMPLOYEES

33. Expeditious travel.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

751. Travel expenses of witnesses.

1967 Amendment. Pub.L. 90-206, Title I, § 222(c) (2), Dec. 16, 1967, 81 Stat. 41, added item 5733.

GOVERNMENT ORGANIZATION 5 § 5703

SUBCHAPTER I—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES

§ 5702. Per diem; employees traveling on official business

(a) An employee, while traveling on official business away from his designated post of duty, is entitled to a per diem allowance prescribed by the agency concerned. For travel inside the continental United States, the per diem allowance may not exceed the rate of \$25. For travel outside the continental United States, the per diem allowance may not exceed the rate established by the President or his designee, who may be the Director of the Bureau of the Budget or another officer of the Government of the United States, for the locality where the travel is performed.

[See main volume for text of (b)]

(c) Under regulations prescribed under section 5707 of this title, the head of the agency concerned may prescribe conditions under which an employee may be reimbursed for the actual and necessary expenses of the trip, not to exceed an amount named in the travel authorization, when the maximum per diem allowance would be much less than these expenses due to the unusual circumstances of the travel assignment. The amount named in the travel authorization may not exceed—

- (1) \$40 for each day in a travel status inside the continental United States; or
- (2) the maximum per diem allowance plus \$18 for each day in a travel status outside the continental United States.

[See main volume for text of (d)]

As amended Pub.L. 91-114, § 1, Nov. 10, 1969, 83 Stat. 190.

1969 Amendment. Subsec. (a). Pub.L. 91-114 increased the per diem allowance for travel inside the continental United States from not to exceed the rate of \$16 to not to exceed the rate of \$25.

Subsec. (c). Pub.L. 91-114 in cl. (1) increased the amount authorized to be named in the travel authorization for each day in a travel status inside the continental United States from not to exceed \$30 to not to exceed \$40, and in cl. (2) increased the amount authorized to be named in the travel authorization for each day in a travel status outside the continental United States from not to exceed the maximum per diem allowance plus \$10 to not to exceed the maximum per diem allowance plus \$18.

Delegation of Functions. Authority of the President to establish maximum rates of per diem allowances to the extent that such authority pertains to travel status of employees (as defined in section 5701 of this title) while en route to, from, or between localities situated outside the 48 contiguous States of the United States and the District of Columbia under the last sentence of subsec. (a) of this section delegated to the Administrator of General Services, see section 1(2) of Ex. Ord.No.11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Legislative History. For legislative history and purpose of Pub.L. 91-114, see 1969 U.S. Code Cong. and Adm. News, p. 1249.

§ 5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay

[See main volume for text of (a) and (b)]

(c) An individual serving without pay or at \$1 a year may be allowed transportation expenses under this subchapter and a per diem allowance under this section while en route and at his place of service or employment away from his home or regular place of business. Unless a higher rate is named in an appropriation or other statute, the per diem allowance may not exceed—

- (1) the rate of \$25 for travel inside the continental United States; and
- (2) the rates established under section 5702(a) of this title for travel outside the continental United States.

(d) Under regulations prescribed under section 5707 of this title, the head of the agency concerned may prescribe conditions under which an individual to whom this section applies may be reimbursed for the actual and necessary expenses of the trip, not to exceed an amount named

5 § 5703 GOVERNMENT ORGANIZATION

In the travel authorization, when the maximum per diem allowance would be much less than these expenses due to the unusual circumstances of the travel assignment. The amount named in the travel authorization may not exceed—

(1) \$40 for each day in a travel status inside the continental United States; or

(2) the maximum per diem allowance plus \$18 for each day in a travel status outside the continental United States.

As amended Pub.L. 91-114, § 2, Nov. 10, 1969, 83 Stat. 190.

1969 Amendment. Subsec. (c)(1). Pub. L. 91-114 increased the per diem allowance for travel inside the continental United States from not to exceed the rate of \$18 to not to exceed the rate of \$25.

Subsec. (d). Pub.L. 91-114 in cl. (1) increased the amount authorized to be named in the travel authorization for each day in a travel status inside the continental United States from not to exceed \$30 to not to exceed \$40, and in cl.

(2) increased the amount authorized to be named in the travel authorization for each day in a travel status outside the continental United States from not to exceed the maximum per diem allowance plus \$10 to not to exceed the maximum per diem allowance plus \$18.

Legislative History. For legislative history and purpose of Pub.L. 91-114, see 1969 U.S.Code Cong. and Adm. News, p. 1240.

§ 5704. Mileage and related allowances

1. Generally

Burich v. U. S., 368 F.2d 984, main volume, 177 Ct.Cl. 139, certiorari denied 88

S.Ct. 132, 389 U.S. 885, 19 L.Ed.2d 182, rehearing denied 88 S.Ct. 486, 389 U.S. 998, 19 L.Ed.2d 504.

§ 5707. Regulations

Delegation of Functions. Authority of the President under this section to prescribe regulations necessary for the administration of subchapter I of this chapter (relating to travel and subsistence expenses and mileage allowances) delegated to the Administrator of General Services, see section 1(3) of Ex.Ord.No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Office of Management and Budget. The Bureau of the Budget was designated as the Office of Management and Budget and the offices of Director of the Bureau of

the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively. Records, property, personnel, and funds of the Bureau of the Budget were transferred to the Office of Management and Budget. See Part 1 of Reorganization Plan 2 of 1970, set out in the Appendix to this title.

§ 5709. Air evacuation patients: furnished subsistence

Notwithstanding any other provision of law, and under regulations prescribed under section 5707 of this title, an employee and his dependents may be furnished subsistence without charge while being evacuated as a patient by military aircraft of the United States.

Added Pub.L. 91-481, § 1(1), Oct. 21, 1970, 84 Stat. 1081.

Legislative History. For legislative history and purpose of Pub.L. 91-481, see 1970 U.S.Code Cong. and Adm. News, p. 4200.

SUBCHAPTER II—TRAVEL AND TRANSPORTATION EXPENSES; NEW APPOINTEES, STUDENT TRAINEES, AND TRANSFERRED EMPLOYEES

§ 5722. Travel and transportation expenses of new appointees; posts of duty outside the continental United States

Delegation of Functions. Authority of the President under subsec. (a) of this section to prescribe regulations with respect to the payment of travel expenses and transportation expenses of household goods and personal effects delegated to

the Administrator of General Services, see section 1(4) of Ex.Ord.No.11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

GOVERNMENT ORGANIZATION

§ 5723. Travel and transportation expenses of student trainees; manpower shortage

Delegation of Functions. Authority of the President under subsec. (a) of this section to prescribe regulations with respect to the payment of travel expenses and transportation expenses delegated to

§ 5724. Travel and transportation expenses of advancement of funds; reimbursement

[See main volume for

(e) When an employee transfers from one agency to which he transfers pays the expenses. However, under regulations prescribed by the President under section 5724 of this title (other than expenses authorized by a transfer to a foreign country) and by the President may be paid in whole or in part by the transfers or by the agency to which he transfers the heads of the agencies concerned.

[See main volume for

As amended Pub.L. 90-623, § 1(14), (

1968 Amendment. Subsec. (e). Pub.L. 90-623 substituted "section 5724(a), (b)" for "section 5724(a), (b)".

Effective Date of 1968 Amendment. Amendment by Pub.L. 90-623 effective Sept. 11, 1967, for all purposes, see section 6 of Pub.L. 90-623 set out as a note under section 5334 of this title.

Delegation of Functions. Authority of the President under this section to prescribe the regulations provided for in this section (relating to travel and transportation expenses and other matters) delegated to the Administrator of General Services, see section 1(3) of Ex.Ord.No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Legislative History. For legislative history and purpose of Pub.L. 90-623, see 1968 U.S.Code Cong. and Adm. News, p. 4446.

Supplementary Index to Notes

Government service 4

§ 5724a. Relocation expenses of employees

Delegation of Functions. Authority of the President under this section to prescribe the regulations provided for in this section, relating to (i) the availability of appropriations or other funds of agencies for the reimbursement of described expenses of employees for whom the Government pays expenses of travel and transportation under section 5724(a) of this title, (ii) the entitlement of em-

§ 5726. Storage expenses; household

Delegation of Functions. Authority of the President under this section to prescribe the regulations provided for in this section relating to (i) the definition of "household goods and personal effects", (ii) allowable storage expenses and related transportation, and (iii) the allowance of nontemporary storage ex-